

### **REMARKS/ARGUMENTS**

These remarks are made in response to the Office Action of October 1, 2008 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Office is expressly authorized to charge any deficiencies or credit any overpayments to Deposit Account No. 50-0951.

#### **Claim Rejections – 35 USC § 112**

In the Office Action, Claims 1-5, 7-8, 10, 14-18, 20-21, and 23 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. More specifically, it was asserted that it is not clear where the e-content are transmitted to.

Claim 1 has been modified to recite that the e-content is transmitted to consumers. Claim 14 has been cancelled.

#### **Claim Rejections – 35 USC § 103**

Claims 1-5, 7-8, 10-18, 20-21, and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,006,197 to d'Eon, *et al.* (hereafter d'Eon) in view of U.S. Patent 6,067,525 to Johnson, *et al.* (hereinafter Johnson), in further view of applicant-admitted prior art (AAPA) or U.S. Patent 6,816,903 to Rakoshitz, *et al.* (hereinafter Rakoshitz), and further in view of U.S. Patent 7,185,353 to Schlack (hereinafter Schlack). Claims 1-5, 7-8, 10-18, 20-21, and 23 were rejected under 103(a) as being unpatentable over non-patent literature "Web Marketing through Oracle iMarketing" by Bellare (Oracle iMarketing), in view of Johnson, Rakoshitz and Schlack.

Applicants respectfully disagree with the rejections and thus have not amended the claims to overcome the art rejections. Applicants have cancelled Claims 11-23. However, Applicants are not conceding that the cancelled claims fail to present

patentable subject matter. The cancellations are solely for the purpose of expediting prosecution. Accordingly, the cancellations should not be interpreted as the surrender of any subject matter, and Applicants expressly reserve the right to present the original version of any of the cancelled claims in any future divisional or continuation applications from the present application.

### *Aspects of Applicants' Invention*

It may be helpful to reiterate certain aspects of Applicants' invention prior to addressing the cited references. One embodiment of the invention, as typified by amended Claim 1, is a method of dynamically modifying an electronic campaign comprising:

The method can include identifying available network capacity of a combined packet-switched and circuit-switched network comprising a plurality of distinct delivery channels; and transmitting electronic content for the electronic campaign to consumers over the plurality of delivery channels of the network according to a predetermined outbound transmission flow rate for the electronic campaign. The plurality of distinct delivery channels can include at least one private network channel for communicating with a private network device, at least one telephonic channel for communicating with telephonic device, and at least one public network channel for communicating with a public Web site.

The method also can include receiving consumer responses associated with each of the plurality of delivery channels used to transmit the electronic content; analyzing the received consumer responses and determining an effectiveness of the electronic campaign over each of said plurality of delivery channels.

The method further can include selectively redirecting at least a portion of the electronic content from delivery channels determined to be less effective to a delivery

channel determined to be more effective, and dynamically modifying said outbound transmission flow rate for said electronic campaign according to said determined effectiveness of the electronic campaign and said identified available network capacity.

See, e.g., Specification, page 12, line 16 to page 14, line 2.

**The Claims Define Over The Prior Art**

Initially, it is noted that in the Examiner's rejection to Claim 1, the limitations amended in the previous response of June 18, 2008 have not been accurately cited.

It was asserted in the Office Action that Claim 1 in step (b) only calls for "... over at least one (or 1) delivery channel of the network...", therefore, the teaching of over the Internet network in d'Eon as shown in col. 2, lines 10-20, Fig. 1 is sufficient. However, it is noted that Claim 1 in step (b) clearly recites: "transmitting electronic content for the electronic campaign to consumers over the plurality of delivery channels of the network according to a predetermined outbound transmission flow rate for said electronic campaign." In contrast, d'Eon only teaches one delivery channel, namely the Internet.

It was also asserted in the Office Action that since d'Eon discloses that Web commerce activities, or advertisements on the Web are becoming more commonplace for business transaction and communication, the use of traditional communication system such as telephonic or VOIP as delivery channel would have been obvious to a skilled artisan as mere using other well known communication system to achieve similar results. However, it is not clear how d'Eon's statement that advertisements on the Web are becoming more commonplace for business transaction and communication would suggest the use of the traditional telephonic delivery channel, or even a plurality of delivery channels.

It was further asserted that the function "Media blitz" is well known function in advertising and would have been obvious to apply all available communication medias

such as telephone, television, newspapers, etc. to inform/reach out to all consumers about the campaign. However, it is noted that a media blitz just means an intense campaign and does not have to use a plurality of delivery channels.

It was asserted in the second paragraph on page 6 of the Office Action that in col. 1, lines 50-55, d'Eon teaches the step of "ascertaining which banners are and are not effective in causing a user to make a transactional decision," therefore, it would have been obvious to improve (modify) the campaign effectiveness by deleting the not effective banners and use only the effective banner in order to be profitable, i.e. increasing AD #1 while decreasing or deleting AD #2, as shown in Fig. 6.

However, it is noted that in the present invention, it is the effectiveness of the same electronic campaign over each of the plurality of delivery channels is analyzed, not the effectiveness of different campaigns over the same delivery channel.

Therefore, Applicants believe that d'Eon does not disclose "transmitting electronic content for the electronic campaign to consumers over the plurality of delivery channels of the network according to a predetermined outbound transmission flow rate for said electronic campaign" and "analyzing the received consumer responses and determining an effectiveness of the electronic campaign over each of said plurality of delivery channels," as recited in Claim 1 of the instant application.

Oracle iMarketing also discloses measuring effectiveness of the Web banner advertisement and modifying the marketing campaign according to the measured effectiveness. Similar to d'Eon, Oracle iMarketing also does not disclose "transmitting electronic content for the electronic campaign to consumers over the plurality of delivery channels of the network according to a predetermined outbound transmission flow rate for said electronic campaign" and "analyzing the received consumer responses and determining an effectiveness of the electronic campaign over each of said plurality of delivery channels," as recited in Claim 1 of the instant application.

The other cited references do not make up for the deficiencies of d'Eon and Oracle iMarketing, as discussed above.

Johnson discloses a sales force automation system which integrates computerized, intelligent automated salesperson support for multiple phases of the sales process. Various subsystems may be provided to facilitate the sales process which may include pre-sales lead generation, maximize time spent with the customer, effectively manage an order, ensure customer satisfaction and retain the customer for future sales. Also provided to support the phases of the sales process are additional tools, integrated in the system. The additional tools may including self management subsystems, sales management subsystems and training subsystems. See the Abstract. Fig. 3 of Johnson illustrates a lead generation component 102 of the system, which may include a kiosk module 302, a Web site module 304, a telemarketing module 306, etc. However, it is noted that these modules are not the delivery channels for transmitting electronic content for the electronic campaign in the sense of the present invention. These modules may be installed at various sites for the purpose of providing sales information with or without a salesperson present and facilitating the connection of lead information that can be provided to the appropriate salesperson. See col. 11, lines 5-8.

Accordingly, the cited references, alone or in combination, fail to disclose or suggest each and every element of Claim 1. Applicants therefore respectfully submit that Claim 1 defines over the prior art. Furthermore, as each of the remaining claims depends from Claim 1 while reciting additional features, Applicants further respectfully submit that the remaining claims likewise define over the prior art.

Applicants thus respectfully request that the claim rejections under 35 U.S.C. § 103 be withdrawn.

**CONCLUSION**

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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